

**§ 41.3 Petitions.**

(a) *Deciding official.* Petitions must be addressed to the Chief Administrative Patent Judge. A panel or an administrative patent judge may certify a question of policy to the Chief Administrative Patent Judge for decision. The Chief Administrative Patent Judge may delegate authority to decide petitions.

(b) *Scope.* This section covers petitions on matters pending before the Board (§§ 41.35, 41.64, 41.103, and 41.205); otherwise, see §§ 1.181 to 1.183 of this title. The following matters are not subject to petition:

(1) Issues committed by statute to a panel, and

(2) In pending contested cases, procedural issues. See § 41.121(a)(3) and § 41.125(c).

(c) *Petition fee.* The fee set in § 41.20(a) must accompany any petition under this section except no fee is required for a petition under this section seeking supervisory review.

(d) *Effect on proceeding.* The filing of a petition does not stay the time for any other action in a Board proceeding.

(e) *Time for action.* (1) Except as otherwise provided in this part or as the Board may authorize in writing, a party may:

(i) File the petition within 14 days from the date of the action from which the party is requesting relief, and

(ii) File any request for reconsideration of a petition decision within 14 days of the decision on petition or such other time as the Board may set.

(2) A party may not file an opposition or a reply to a petition without Board authorization.

[69 FR 50003, Aug. 12, 2004, as amended at 69 FR 58260, Sept. 30, 2004]

EFFECTIVE DATE NOTE: At 73 FR 32973, June 10, 2008, § 41.3 was amended by revising paragraphs (a) and (b), effective December 10, 2008. For the convenience of the user, the revised text is set forth as follows:

**§ 41.3 Petitions.**

(a) *Deciding official.* A petition authorized by this part must be addressed to the Chief Administrative Patent Judge. The Chief Administrative Patent Judge may delegate authority to decide petitions.

(b) *Scope.* This section covers petitions on matters pending before the Board, petitions authorized by this part and petitions seeking

relief under 35 U.S.C. 135(c); otherwise see §§ 1.181 to 1.183 of this title. The following matters are not subject to petition:

(1) Issues committed by statute to a panel.

(2) In pending contested cases, procedural issues. See § 41.121(a)(3) and § 41.125(c).

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**§ 41.4 Timeliness.**

(a) *Extensions of time.* Extensions of time will be granted only on a showing of good cause except as otherwise provided by rule.

(b) *Late filings.* (1) A late filing that results in either an application becoming abandoned or a reexamination prosecution becoming terminated under § 1.550(d) or § 1.957(b) of this title or limited under § 1.957(c) of this title may be revived as set forth in § 1.137 of this title.

(2) A late filing that does not result in either an application becoming abandoned or a reexamination prosecution becoming terminated under § 1.550(d) or § 1.957(b) of this title or limited under § 1.957(c) of this title will be excused upon a showing of excusable neglect or a Board determination that consideration on the merits would be in the interest of justice.

(c) *Scope.* This section governs all proceedings before the Board, but does not apply to filings related to Board proceedings before or after the Board has jurisdiction, such as:

(1) Extensions during prosecution (see § 1.136 of this title),

(2) Filing of a brief or request for oral hearing (see §§ 41.37, 41.41, 41.47, 41.67, 41.68, 41.71 and 41.73), or

(3) Seeking judicial review (see §§ 1.301 to 1.304 of this title).

[69 FR 50003, Aug. 12, 2004, as amended at 72 FR 18907, Apr. 16, 2007]

EFFECTIVE DATE NOTE: At 73 FR 32973, June 10, 2008, § 41.4 was amended by revising paragraphs (b) and (c), effective December 10, 2008. For the convenience of the user, the revised text is set forth as follows:

**§ 41.4 Timeliness.**

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(b) *Late filings.* (1) A request to revive an application which becomes abandoned or a reexamination proceeding which becomes terminated under §§ 1.550(d) or 1.957(b) or (c)